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16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
17 **COUNTY OF LOS ANGELES**

18
19 PICO NEIGHBORHOOD ASSOCIATION and
MARIA LOYA,

20 Plaintiffs,

21 v.

22 CITY OF SANTA MONICA, and DOES 1
23 through 100, inclusive,

24 Defendants.
25
26
27
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CASE NO. BC616804

**PLAINTIFFS' OBJECTION AND
RESPONSE TO DEFENDANT'S
REQUEST FOR STATEMENT OF
DECISION**

*Code of Civil Procedure Section 632;
California Rule of Court 3.1590(e)*

Trial Date: August 1, 2018
Dept.: 28

[Assigned to the Honorable Yvette Palazuelos]

**CONFORMED COPY
ORIGINAL FILED**
Superior Court of California
County of Los Angeles

NOV 26 2018

Sherri R. Carter, Executive Officer/Clerk of Court
By: Raul Sanchez, Deputy

1 **I. INTRODUCTION.**

2 Following this Court’s November 8 Tentative Decision finding in favor of Plaintiffs on both of
3 their causes of action, Defendant filed what it calls a “Request for Statement of Decision” but is really
4 more of an inquisition of this Court by a litigant unhappy with the Court’s decision. Defendant is
5 entitled to an explanation of the legal/factual basis for the Court’s decision; it is not, however, entitled
6 to the rehearing of the evidence it seeks through its 152 questions, including subparts, that would only
7 serve to burden and punish this Court for having the audacity to rule in favor of Plaintiffs in their effort
8 to vindicate the voting rights of the Latino community in Santa Monica.

9 As Defendant has attempted to do at every stage of this case, its “Request for Statement of
10 Decision” unnecessarily complicates the issues in this case. Its 16 demands, with an additional 32
11 subparts, amounting to a total of 152 questions, assume Defendant’s version of the facts that was
12 unsupported by the evidence at trial and Defendant’s distorted view of the law that was implicitly
13 rejected by this Court in reaching its (correct) decision. Plaintiffs propose (below in Section III) a
14 more sensible and straightforward 5 questions that should guide this Court’s explanation of the basis
15 for its decision, consistent with the California Voting Rights Act (“CVRA”) and applicable authority
16 concerning Equal Protection claims. Alternatively, this Court may delegate to Plaintiffs the task of
17 preparing a Statement of Decision for this Court’s review and, if appropriate, revision; indeed, that is
18 the course that the appellate courts have advised in precisely the circumstances here.

19 **II. DEFENDANT’S REQUEST FOR STATEMENT OF DECISION IMPERMISSIBLY SEEKS TO**
20 **INTERROGATE THE COURT ABOUT SUBSIDIARY ISSUES.**

21 Following a tentative decision, any party may request a statement of decision “to address the
22 principal controverted issues.” (Cal. Rules of Court, rule 3.1590, subd. (d).) The request may not,
23 however “interrogate the judge.” (*People v. Casa Blanca Convalescent Homes, Inc.* (1984) 159
24 Cal.App.3d 509, 525 (“*Casa Blanca*”); *Kroupa v. Sunrise Ford* (1999) 77 Cal.App.4th 835, 842.) Nor
25 may a request for statement of decision demand that the Court address subsidiary or evidentiary
26 issues—that is, issues that are not “relevant and essential to the judgment and closely and directly
27 related to the trial court’s determination of the ultimate issues in the case.” (*Kuffel v. Seaside Oil Co.*
28 (1977) 69 Cal.App.3d 555, 565 (*Kuffel*) [“special findings are not required on every subsidiary matter

1 on which evidence is received at trial, even though the subsidiary matter is relevant to the ultimate
2 issues of fact.”]; *Wolf v. Lipsy* (1985) 163 Cal.App.3d 633, 643.)

3 “The court’s statement of decision is sufficient if it fairly discloses the court’s determination as
4 to the ultimate facts and material issues in the case.” (*Golden Eagle Ins. Co. v. Foremost Ins. Co.*
5 (1993) 20 Cal.App.4th 1372, 1380 (“*Golden Eagle*”).) There is no requirement that the Court opine on
6 subsidiary matters to bolster a losing party’s anticipated appeal. The Court need not address how it
7 resolved intermediate evidentiary conflicts, or respond point-by-point to the various issues posed in a
8 request for statement of decision. (*Muzquiz v. City of Emeryville* (2000) 79 Cal.App.4th 1106, 1126.)

9 Defendant’s Request for Statement of Decision does exactly what the courts have explained is
10 impermissible—it seeks to interrogate this Court with an oppressive number of questions, most of
11 which have little bearing on the ultimate controverted issues. Defendant’s Request for Statement of
12 Decision includes 16 demands, with an additional 32 subparts, that amount to a total of 152 questions.
13 This case, like nearly all others, is not so complicated as to necessitate 152 ultimate questions be
14 answered to explain the basis of the Court’s decision.

15 The court’s discussion in *Casa Blanca* is particularly instructive. Just as Defendant does here,
16 the defendant in *Casa Blanca* listed 16 demands in its request for statement of decision, and those
17 demands included multiple subparts. In total, the request for statement of decision in *Casa Blanca*
18 posed at least 75 questions; in comparison, Defendant’s Request for Statement of Decision here poses
19 152 questions.¹ The court explained that was oppressive and inappropriate:

20 In the request for statement of decision filed by Casa Blanca, rather than
21 a request for the legal/factual basis for the court's decision on the issues
22 framed by the pleading, it made 16 demands, each with several subparts.
23 These subparts would require the trial court to answer over 75 questions
24 and make a list of findings on evidentiary facts on issues not
25 controverted by the pleadings. Such a requirement cannot be made of
26 the court. Casa Blanca seeks an inquisition, a rehearing of the evidence.
The trial court was not required to provide specific answers so long as
the findings in the statement of decision fairly disclose the court's
determination of all material issues.

27
28 ¹ Several of Defendant’s 16 demands include multiple subparts which, in turn, demand that this Court answer
questions for each of several elections. Based on the number and type of elections discussed at trial, Plaintiffs
calculate that Defendant’s Request for Statement of Decision poses a total of 152 distinct questions.

1 (*Id.* at 525 (citations omitted); see also *Golden Eagle, supra*, 20 Cal.App.4th 1372, 1380 [finding that a
2 statement of decision adequately covered the principal issues in spite of the fact that it failed to
3 respond to a party’s outline of 36 issues claimed to be in controversy]; *Marriage of Balcof* (2006) 141
4 Cal.App.4th 1509, 1530 [finding that the trial court was not required “to provide a statement of
5 decision addressing every single one of [defendant’s] 37 questions.”].)

6 In light of the excessive number of questions posed in Defendant’s Request for Statement of
7 Decision, it is not surprising that those questions are largely inappropriate. Question number 10,
8 subpart (c), is exemplary. That question asks: “Did the Court conclude that Oscar de la Torre’s
9 deliberate attempt to lose the 2016 City Council election after his wife filed this lawsuit amounted to a
10 ‘special circumstance’?” That question begins with a presumption—“that Oscar de la Torre[]
11 deliberate[ly] attempt[ed] to lose the 2016 City Council election”—which has no support in the
12 evidence presented at trial. On the contrary, the unrebutted evidence at trial demonstrated that Mr. de
13 la Torre did *not* deliberately lose the 2016 city council election; he received essentially the same level
14 of support from Latino voters as he has received in school board elections, but far less support from
15 non-Hispanic whites. (Tr., at p. 2469:18–27; Tr. Ex. 297, at pp. 26–27.) Moreover, the evidentiary
16 weight to give to the 2016 election, based on whether that election involved special circumstances, is
17 not an ultimate issue; it is, at most, a subsidiary evidentiary matter that need not be addressed in the
18 Court’s statement of decision. (See *Kuffel, supra*, 69 Cal.App.3d at p. 565 [“special findings are not
19 required on every subsidiary matter on which evidence is received at trial, even though the subsidiary
20 matter is relevant to the ultimate issues of fact.”]; *Casa Blanca, supra*, 159 Cal.App.3d at p. 524
21 [“Casa Blanca would compel the trial court to make findings with regard to detailed evidentiary facts,
22 to make minute findings as to individual items of evidence. Such a detailed evidentiary analysis is not
23 required by law.”].)

24 **III. PLAINTIFFS’ PROPOSALS FOR STATEMENT OF DECISION.**

25 Rather than answer each of the convoluted 152 questions posed by Defendant’s Request for
26 Statement of Decision, this Court’s statement of decision should generally focus on the ultimate issues,
27 as they were presented in Plaintiffs’ closing briefs and proposed verdict form.

28 ///

1 With respect to Plaintiffs’ claim under the CVRA, Plaintiffs propose the following principal
2 issues, with respect to liability, be addressed by the Statement of Decision:

- 3 1. Does the City of Santa Monica employ an at-large method of election for its City Council?
- 4 2. Does racially polarized voting occur in elections for members of Defendant’s City Council in
5 which at least one candidate is Latino?
 - 6 a. Does the quantitative evidence, namely the experts’ ecological regression and/or
7 ecological inference analyses, reveal racially polarized voting?
 - 8 b. Does the qualitative evidence of factors listed in section 14028(e) of the CVRA,
9 which are “probative but not necessary [] to establish a violation of [the CVRA]”
10 support a finding of racially polarized voting?

11 With respect to Plaintiffs’ Equal Protection claim, Plaintiffs propose the following principal
12 issues, with respect to liability, be addressed by the Statement of Decision:

- 13 1. Was Defendant’s at-large election system maintained with a discriminatory purpose at any
14 time?
- 15 2. Has Defendant’s at-large election system had a disparate impact on Latinos?

16 **IV. PLAINTIFFS SHOULD BE DESIGNATED TO PREPARE THE STATEMENT OF DECISION.**

17 “The preparation of a statement of decision should place no extra burden on the trial courts.”
18 (*Whittington v. McKinney* (1991) 234 Cal.App.3d 123, 129, n. 5). Accordingly, a prevailing “party
19 may be, and often should be, required to prepare the statement [of decision],” particularly where the
20 task of preparing a statement of decision is anticipated to be time-consuming. (*Ibid.*; Cal. Rules of
21 Court, rule 3.1590, subds. (c), (f).)

22 Where a court delegates the initial responsibility for preparing a statement of decision, it is not
23 abdicating any responsibility; the Court is still required to review the statement, any objections thereto,
24 and to order whatever corrections, additions, or deletions it deems appropriate. (*Miramar Hotel Corp.*
25 *v. Frank E. Hall Co.* (1985) 163 Cal.App.3d 1126, 1129.) So, even if Plaintiffs prepare the statement,
26 Defendant may still object to the draft statement of decision and propose corrections, additions, or
27 deletions just as it could if the Court prepared the statement itself. (Cal. Rules of Court, rule 3.1590,
28 subd. (g).)

1 Plaintiffs stand ready to prepare a statement of decision for this Court's review, consideration
2 and, if appropriate, revision.

3 **V. CONCLUSION.**

4 Defendant's Request for Statement of Decision is horribly inappropriate and only serves to
5 needlessly burden this Court. To assist the Court and relieve the burden of sifting through Defendant's
6 152 questions posed in its Request for Statement of Decision, the Court should designate Plaintiffs to
7 prepare the statement of decision, subject to the Court's review. Alternatively, if the Court wishes to
8 prepare the Statement of Decision on its own, it should focus on the ultimate issues, not the numerous
9 subsidiary, and largely irrelevant, matters Defendant seeks to burden this Court in explaining.
10

11 DATE: November 26, 2018

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[X] **BY ELECTRONIC SERVICE as follows:** Based on a court order, or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the persons at the electronic notification addressed listed on the attached Service List.

Executed on November 26 2018, at Lancaster, California.

X (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.



Cheryl Cinnater

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